

### **REMARKS/ARGUMENTS**

Claims 1 through 24 remain pending in this application. Claims 3 and 5 have been amended as shown above.

As requested by the Examiner, Figures 1 and 3-8 have been amended to incorporate suitable labels for the drawing elements shown in those figures. The labels correspond to the discussion of the respective elements in the specification and no new matter has been added to the drawings.

In the Examiner's Report dated November 13, 2003, the Examiner objected to the specification on the basis that the summary of invention contains paragraphs corresponding in language to the language of the claims. The Examiner requested that the summary of invention be amended in accordance with MPEP § 608.01(d). The applicant has carefully considered the Examiner's objection, but respectfully traverses the objection for the following reasons.

The applicant respectfully notes that paragraphs 9, 15, and 16 within the brief summary of invention section are not copies of the claims. The applicant also notes that 37 C.F.R. 1.73 reads as follows:

A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary should, when set forth, be commensurate it with the invention as claimed and any object recited should be that of the invention as claimed. (emphasis added)

Moreover, the applicant notes that MPEP § 608.01(d) indicates that the brief summary of invention "should be consistent with the subject matter of the claims". There is no requirement set forth in 37 C.F.R. 1.73 of MPEP §

608.01(d) that the brief summary of the invention cannot contain paragraphs paraphrasing or mirroring the language of the independent claims. The Examiner may be aware that it is common in US patent practice to include consistory clauses within the brief summary of the inventions section mirroring the language of the independent claims. There is no requirement to recite objects or to trumpet the advantages of the invention. Accordingly, the applicant respectfully submits that the specification meets the requirements of 37 C.F.R. 1.73 in its present form and that no amendment is required.

In the Examiner's Report, the Examiner also rejected claims 1 through 24 of the present application pursuant to 35 U.S.C. 102(e) on the basis that they are anticipated by US Patent Application Publication No. US2002/0103900A1 (Cornelius et al.). The applicant has carefully considered the Examiner's art-based rejections, but respectfully traverses the rejections for the following reasons.

The Cornelius et al. reference describes a business-to-business (B2B) communication system, such as interconnected enterprise resource planning systems. The B2B system described by Cornelius et al. includes a primary business system 70 and a secondary business system 72 interconnected via a base data processing system 12 and a remote data processing system 18 communicating over a communications network 16. The primary and remote business systems conduct transactions and exchange transaction data through the communications network.

The Cornelius et al. reference addresses the issue of B2B systems having different software and/or hardware, or having different software/hardware

upgrades at different times. Cornelius et al. propose a management/monitoring system 14 to remotely observe and evaluate the software and hardware characteristics of the base data processing system 12 and one or more remote data processing systems 18.

The monitoring system 14 described by Cornelius et al. includes a processor 30 and a data storage device 32. The data storage device 32 stores reference parameters (i.e., technical parameters regarding the data processing systems, such as configuration data, module identifiers, version information, etc.): para.[0040]-[0041]. The data storage device 32 also stores received parameters (i.e., technical parameters reflecting the actual state of the data processing system, such as actual configuration data, actual module identifiers, etc.): para.[0040] and [0042]. Lastly, the data storage device 32 stores revision data including software modules, updates, and desired versions or values for the data processing system: para.[0044].

The present invention is directed to the issue of latency in mirroring data storage at a remote storage cite. As described in the specification for the present application, a storage consumer, such as a server or mainframe computer, may require redundant and reliable storage of data. One of the mechanisms for providing redundant and reliable storage of data is to mirror the storage provided at a primary location with storage of the same data at a remote or mirrored storage site. The present invention is directed to a system and method for mirroring data to a remote storage site.

In particular, and as claimed in claim 1 of the present application, a mirrored storage system according to the present invention includes a primary site, which

receives data from a storage consumer and has a primary controller and a primary storage device. The primary controller transcribes data received from the storage consumer to the primary storage device and transmits the same data to a remote site over a communications link. The remote site has a remote controller and a remote storage device, wherein the remote controller receives the data transmitted by the primary controller and transcribes the received data to the remote storage device. The communication link includes a plurality of redundant communication paths between the primary site and the remote site.

The Cornelius et al. reference neither suggests nor describes a mirrored storage system for transcribing data from a storage consumer. The Cornelius et al. reference is directed to an entirely different problem and issue and in no way attempts to address issues of redundant or reliable data mirroring. It is unclear from the Examiner's Report which components of the Cornelius et al. system the Examiner considers constitute the primary and remote sites claimed in claim 1 of the present application. The Examiner has directed the applicant's attention to paragraphs 32 through 34; however, those paragraphs refer to the base data processing system 12, the primary business system 70, the remote data processing system 18, and the management system 14. As best the applicant can understand, the Examiner is suggesting that the primary business system 70 constitutes a storage consumer and that either the base data processing system 12 or the management systems 14 constitute the primary site and that the remote data processing system 18 constitutes the remote site. It is noted that the base data processing system 12 does not include a primary controller and a primary storage device for transcribing data received from the primary business system 70. Although the management system 14 includes a processor 30 and a storage device 32, as outlined above, the storage device 32 is not intended for

storing data received from the storage consumer (the primary business system 70) but instead is a repository of technical and configuration data regarding the data processing systems themselves. Cornelius et al. at no point suggests that either the base data processing system 12 or the management system 14 receive data from a storage consumer, store the data, and transmit the data to the remote data processing system 18 for mirrored storage at that location. In the applicant's respectful submission, this is not surprising since Cornelius et al. neither contemplates nor suggests the use of his system for mirrored data storage.

Accordingly, the applicant respectfully submits that claim 1 of the present application is both new and non-obvious over the cited Cornelius et al. reference.

The foregoing arguments distinguishing claim 1 over the cited reference are equally applicable to the method claimed in claim 11 of the present application. None of the steps recited in claim 11 of the present application are taught or suggested in the Cornelius et al. reference.

For the same reasons, independent claims 18 and 22 are also distinguishable over the cited reference. As claims 2-10, 12-17, 19-21, 23, and 24 are all dependent claims, it is respectfully submitted that they are also distinguishable over the cited reference for the same reasons.

In view of the foregoing comments, the applicant respectfully requests that the Examiner withdraw his art-based rejection of claims 1 through 24 and requests that a timely Notice of Allowance be issued. Should the Examiner have any

questions with regard to the foregoing amendments or submissions, she is invited to telephone the applicant's agent, Bill Vass at 416-868-1482.

Respectfully Submitted,  
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